

1979 WL 42924 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 12, 1979

\*1 Mr. James R. Metts  
Sheriff  
Lexington County  
521 Gibson Road  
Lexington, South Carolina 29072

Dear Jimmy:

In a recent letter you asked whether coins and ceramics constitute novelties and therefore can be sold on Sunday pursuant to [Section 53-1-50 of the 1976 Code](#) of Laws.

As to the coins, enclosed please find a copy of a previous opinion of this office which stated that:

It is the opinion of this Office that any coin show that you hold on Sunday would be in violation of the South Carolina Blue Laws, specifically [Section 53-1-40, Code of Laws of South Carolina](#), 1976. This opinion, of course, assumes that you will be selling coins to collectors.

Although such opinion did not discuss whether coins could be classified as novelties and even though such term is ambiguous as explained in the latter portions of this letter, it is the opinion of this office that coins do not come within the definition of novelties and thus may not be sold on Sunday.

As to whether ceramics are novelties and thus pursuant to [Section 53-1-50 of the 1976 Code](#) of Laws may legally be sold, there is no firm definition as to what is or is not a novelty. The South Carolina Supreme Court in [State v. Solomon](#), 245 S.C. 550, 141 S.E. 2d 818 (1965), stated that the reference in the above section to novelties and souvenirs was not unconstitutionally vague. As to such the Court stated:

novelties and souvenirs' are terms of common usage in the business world and business people of ordinary intelligence . . . would be able to know what exceptions are meant by the terms, either as a matter of ordinary commercial knowledge or upon reasonable investigation. Under such circumstances, there is no necessity to guess at the statute's meaning in order to determine what conduct it makes criminal. 245 S.C. at 571.

I have been unable to find where the word 'novelty' has been further construed by the courts in South Carolina. However, in [Whitney Stores, Inc. v. Summerford](#), 280 F. Supp. 406 at 410 (1968), a federal district court referred to the above discussion of 'novelties and souvenirs' and commented that:

(t)he problem of defining 'novelties and souvenirs' has also been settled. . . . Under such circumstances there is no need to guess at the statute's meaning in order to determine what conduct it makes criminal.

Admittedly, though, making a determination of whether or not an item is a novelty is troublesome even in light of the Supreme Court's statement that the term is a term of common usage. Furthermore, as referenced above, the sale of items which may be classified as souvenirs is not prohibited on Sunday. The term 'souvenir' has been defined as ' . . . a keepsake or remembrance.' 39 A [Words and Phrases](#), p. 62. Therefore, as to your situation, you may have an item which, even though it may not meet the definition of a 'novelty,' would be a 'souvenir' and thus could legally be sold on Sunday pursuant to [Section 53-1-50](#).

\*2 In making any determination, reference should be made to [Section 53-1-60 of the 1976 Code](#) of Laws which lists items specifically prohibited from being sold. Among those items listed are 'china' and 'glassware.' Based on such, it would appear that, without more, the sale of ceramics would be prohibited.

This office unable to construe the term 'novelties' so as to state that notwithstanding the prohibition of the sale of 'glassware' and 'china' on Sunday, the sale of ceramics on Sunday would be permitted. Therefore, it is the opinion of this office that the term novelties does not include ceramics and thus ceramic items, which cannot be further classified as souvenirs, may not legally be sold on Sunday.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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